

International Law Studies—Volume 24

International Law Documents

provisions in the drafts laid before the Commission stated that persons violating the article in question were to be punishable with death, or were to be treated as war criminals. No such stipulation figures in the Land Warfare Regulations and it has seemed better to omit it. Its absence will not in any way prejudice the imposition of punishment on persons who are guilty of breaches of the laws of aerial warfare.

United States of America:

JOHN BASSETT MOORE.

ALBERT HENRY WASHBURN.

British Empire:

RENNELL RODD.

CECIL J. B. HURST.

France:

A. DE LAPRADELLE.

BASDEVANT.

Italy:

V. ROLANDI RICCI.

Japan:

K. MATSUI.

M. MATSUDA.

Netherlands:

A. STRUYCKEN.

VAN EYSINGA.

The Secretary-General:

J. P. A. FRANÇOIS.

THE HAGUE, *February 19, 1923.*

CONVENTION BETWEEN NORWAY AND SWEDEN RELATING TO AIR NAVIGATION, SIGNED AT STOCKHOLM, MAY 26, 1923 ²⁵

His Majesty the King of Sweden and His Majesty the King of Norway, who have agreed to conclude a Convention relating to Air Navigation between Sweden and Norway, have for this purpose appointed as their plenipotentiaries:

His Majesty the King of Sweden:

His Excellency Carl Fredrik Wilhelm Hederstierna, His Majesty's Minister for Foreign Affairs;

His Majesty the King of Norway:

M. Johan Herman Wollebaek, His Majesty's Envoyé Extraordinary at Stockholm;

who, having duly received full powers, have agreed as follows:

²⁵ 1923 League of Nations Treaty Series, Vol. XVIII, p. 173. While the "Rules of Aerial Warfare" drawn up by the Commission of Jurists in 1923 have not been ratified, conventions somewhat similar to that of May 26, 1923, between Norway and Sweden have been ratified by several states since the World War.

ARTICLE 1

The Contracting States recognise each other's sovereignty in the air space above their territory and territorial waters.

ARTICLE 2

Each of the Contracting States undertakes in time of peace to accord freedom of innocent passage above its territory to private aircraft of the other State, under the terms laid down in this Agreement, and shall accord to the other State any privilege which may be granted to any non-Contracting State with reference to admission over its territory.

ARTICLE 3

The conditions laid down by one Contracting State regarding the granting of air navigation for its own aircraft shall also be valid as regards such aircraft belonging to the other State as may desire admission over its territory, provided the other State does not depart from the provisions of this Convention.

The Contracting States will endeavour to secure the greatest possible uniformity in the terms of these conditions.

ARTICLE 4

The Contracting States undertake to make provisions to ensure, in such manner as may be desirable according to the circumstances, that, should an aircraft belonging to one Contracting State be within the territory of the other, any claims on account of damage which may be put forward in the latter State, in accordance with law, by persons who have incurred damage either to themselves or to their property, except shipping, as a result of the use of the aircraft, shall be met by an insurance scheme.

The insurance shall be of the same nature, and of the same value, as is required by the State in which the flight takes place in the case of its own aircraft when flying in its own territory.

Even if one of the Contracting States does not require insurance payments from its own aircraft when flying over its own territory, aircraft belonging to the other Contracting State, when flying over the territory of the first-named State, shall be liable to pay the same insurance fees as when flying in their own country.

The Contracting States shall recognise as valid the insurance scheme in force in each country for this purpose in the case of insurance companies recognised by the State in question, provided that the company concerned in the case settles claims for compensation through its representative in the other State.

ARTICLE 5

Each Contracting State has the right, for military reasons or in the interest of public safety, to prohibit or restrict aircraft from flying over certain areas of its territory, under the penalties provided by its legislation, but on condition that the same provisions shall be laid down for this purpose for private aircraft belonging to the other Contracting State as are laid down for its own private aircraft.

The other State shall be informed of any regulations enacted for this purpose.

ARTICLE 6

Any aircraft belonging to one of the Contracting States which finds itself above a prohibited area in the other State, shall immediately give the signal of distress provided for in the airway regulations (Annex D), and shall land as soon as possible outside the prohibited area on one of the aerodromes in that State. The State authorities may, however, require an immediate landing on another place, provided that such landing can be effected without danger.

ARTICLE 7

An aircraft shall possess the nationality of the State on whose aircraft register it is entered in accordance with Regulation A, I. c.

A certificate of registration, issued by the competent authority of the country to which the aircraft belongs, shall be recognised as a valid proof of the nationality of the aircraft.

ARTICLE 8

An aircraft can only be entered on the aircraft register of one of the Contracting States if its owner is a national of that State. If the owner is an incorporated company belonging to the country in question, the headquarters of the company must be situated in that country and the president and at least two-thirds of the other members of the board of directors must be persons resident in that country, must possess civil rights and must be shareholders, and the company itself must fulfil the regulations customarily in force in that country.

The registration of any aircraft which ceases to comply with these conditions shall at once be cancelled.

ARTICLE 9

An aircraft cannot legally be registered in more than one of the Contracting States.

ARTICLE 10

The Contracting Parties shall exchange each month through the registration authorities concerned extracts from the register of aircraft including a list of the aircraft entered in or deleted from the register.

ARTICLE 11

Aircraft engaged in navigation between the Contracting States shall, in accordance with Annex A, be provided with such marks showing their nationality and registration as are necessary for purposes of identification during the flight, together with other marks or signs.

ARTICLE 12

Aircraft engaged in air navigation between the Contracting States shall, in accordance with Annex B, be provided with a certificate of air-worthiness, issued or recognised by the State whose nationality it possesses.

ARTICLE 13

The crew of an aircraft engaged in navigation between the Contracting States shall, in accordance with Annex E, be provided with certificates issued or recognised by the State whose marks of nationality the aircraft carries.

ARTICLE 14

Certificates of air-worthiness and the certificates of the crew, issued by one of the Contracting States in accordance with Annexes B and E, shall be recognised as valid by the other Contracting State.

In the case of one of its own nationals, however, either State may refuse to recognise a certificate issued or recognised by the other State should the flight be over its own territory.

ARTICLE 15

No aircraft belonging to one of the Contracting States may have a wireless apparatus except with the special permission of the State to which it belongs. Wireless apparatus shall not be used except by members of the crew provided with a special license for the purpose, issued by the State to which the aircraft belongs. Aircraft which fulfil these conditions are entitled to carry and use wireless apparatus when flying over the territory of the other Contracting State.

Either of the Contracting States can decree that certain kinds of aircraft shall carry wireless apparatus. The regulations provided for this purpose shall be the same for aircraft belonging to the State in question as for aircraft belonging to the other Contracting State.

Regulations for the use of wireless apparatus shall, so far as possible, be rendered uniform in the two Contracting States.

The air administrations of the two Contracting States may agree to draw up joint rules on this subject.

ARTICLE 16

Aircraft belonging to one of the Contracting States may cross the territory of the other Contracting State without landing. In such a case an aircraft shall follow the route prescribed by the State over which the flight takes place.

If required for reasons of public security, or if there should be any well-founded suspicion of an infraction of the law of the State over whose territory the flight takes place, aircraft may, by means of signals provided for in the air regulations (Annex D) be ordered to land at an aerodrome, or at some other place, if this may be done without danger.

Aircraft flying from the territory of one Contracting State to the territory of the other State shall also follow the route laid down by the State in question, and land at one of the aerodromes prescribed in the Customs Annex attached to this Convention.

For the establishment of international air-routes (by which is understood air-routes marked out with ground marks) the consent of the State over whose territory the air route passes is required. No tolls for the use of international air-routes already established may be claimed from aircraft belonging to the other Contracting State provided they do not land.

ARTICLE 17

For the institution of a permanent system of air-route connections for the conveyance of persons and goods for hire between the Contracting States, the permission of the State with which it is desired to establish a connection is required.

The Contracting States, however, undertake mutually to grant each others' aircraft the required permission, on condition that the aircraft of both States are allowed to use the air-route connections thus established on an equal footing.

The air-post shall be organised by special Agreement between the Contracting States.

ARTICLE 18

Each of the Contracting States shall have the right to reserve to its national aircraft the carriage of persons and goods for hire between two points within its own territory. Should other States be granted the right to such traffic, the Contracting States shall afford each other most-favoured-nation treatment in this respect.

If one of the Contracting States imposes restrictions of the kind referred to, which also affect the other State, its own aircraft may be subjected to the same restriction in the other Contracting State, even though the latter may not impose corresponding restrictions on other foreign aircraft.

Restrictions and reservations of the kind referred to shall be made public, and notice of them shall be given to the other State.

ARTICLE 19

During a passage, including landings, and such stoppage as may in the circumstances be necessary in the territory of one Contracting State, aircraft belonging to the other Contracting State shall be exempted from seizure on the grounds of infringement of patent rights, in virtue of a certificate of immunity, the scope of which shall, in the absence of a friendly agreement, be determined as soon as possible by the competent authority at the place in question.

ARTICLE 20

Aircraft belonging to the Contracting States shall, when flying between the two countries, be provided with:

- (a) A certificate of registration in accordance with Annex A.
- (b) A certificate of air-worthiness in accordance with Annex B.
- (c) Certificates of the crew, in accordance with Annex E.
- (d) A list of passengers.
- (e) A bill of lading of any goods carried, in accordance with the Customs Annex attached to this Convention.
- (f) Log-books, in accordance with Annex C.
- (g) An attestation, issued by the Air Navigation Administration in the country to which the aircraft belongs, certifying that an insurance policy has been taken out in accordance with Article 4.
- (h) If necessary, a special licence to carry wireless apparatus.

The aircraft's papers shall make it clear who is in command on board.

ARTICLE 21

The log-books shall be kept for two years after the last entry.

ARTICLE 22

Upon the departure or landing of an aircraft, the competent authorities of the Contracting States shall have the right to visit the aircraft and to verify the documents with which it must be provided.

ARTICLE 23

Aircraft belonging to one Contracting State may claim in the other State the same assistance on landing, and in case of distress, as aircraft belonging to that State.

With regard to salvage of aircraft wrecked at sea, the Contracting States shall apply, so far as is possible, the regulations in force for the salvage of ships.

ARTICLE 24

Any aerodrome in the Contracting States available for general use, upon payment of charges, by the aircraft of the country in question, shall also be open for the use of aircraft belonging to the other Contracting State.

The tariff rates and all other regulations for the use of such aerodromes shall be the same for aircraft belonging to the other Contracting State as for the aircraft of the State in which the aerodrome is situated.

ARTICLE 25

Each Contracting State undertakes to adopt measures to ensure that every aircraft flying above the limits of its territory, and that every aircraft bearing its marks of nationality, which finds itself within the territory of the Contracting State or on international territory, shall comply with the air regulations (Annex D); the State shall also undertake to prosecute all persons infringing these regulations.

ARTICLE 26

The carriage by aircraft of explosives and of arms and munitions of war between the Contracting States is forbidden.

ARTICLE 27

Each of the Contracting States may prohibit or regulate the carriage or use of photographic apparatus.

The Contracting States shall inform each other of such regulations.

ARTICLE 28

As a measure of public safety, the carriage of objects other than those mentioned in Articles 26 and 27 may be subjected to restrictions by each Contracting State.

The Contracting States shall inform each other of such regulations.

ARTICLE 29

All restrictions of the kind mentioned in Article 28 shall be applied equally to private aircraft belonging to the country in question and private aircraft belonging to the other Contracting State.

ARTICLE 30

All aircraft other than military and similar aircraft which are employed exclusively on State service, such as Customs, post and police aircraft, shall be treated as private aircraft and as such shall be subject to all the provisions of the present Convention.

ARTICLE 31

Every aircraft commanded by a person in military service detailed for the purpose is deemed to be a military aircraft.

ARTICLE 32

Military aircraft from one Contracting State may neither fly over nor land within the territory of the other Contracting State without special authorisation. In case of such authorisation the military aircraft shall enjoy, in the absence of a special stipulation, the privileges of ex-territoriality which are customarily accorded to foreign ships of war. A military aircraft which is forced to land and which does not possess authorisation to do so, or which is required or compelled to land cannot by reason thereof acquire right to ex-territoriality.

ARTICLE 33

Further negotiations shall be pursued between the Contracting parties to determine in what cases Customs and police aircraft can be authorised to cross the frontier. They shall in no case be entitled to the privilege of ex-territoriality.

ARTICLE 34

The provisions of this Convention shall be supplemented by Annexes *a* to *e*, which shall come into force simultaneously with the Convention and shall be valid for the same period as the latter.

These annexes may be modified and amplified by negotiations between the air administrations of the Contracting States.

ARTICLE 35

Each Contracting State undertakes to cooperate as far as possible in international measures concerning:

- (a) Meteorological investigations;
- (b) The publication of standard aeronautical maps and the establishment of a uniform system of ground marks for flying;
- (c) The use of wireless in air navigation and the establishment of the necessary wireless stations.

The air administrations of the Contracting States may negotiate directly with each other regarding joint regulations for the matters referred to in (a) and (b).

ARTICLE 36

The air administrations of the Contracting States shall, except in cases which they have authority to decide by the terms of the present Convention, receive and elaborate proposals for amendments to this Convention, and shall further deal with questions affecting air navigation between the Contracting States.

ARTICLE 37

The Contracting States undertake to accord to each other's aircraft arriving at, departing from or traversing their respective countries, the same treatment in every respect as they accord to their own aircraft and to treat any cargo, lawfully carried by such aircraft, in the same manner as if it were carried by their own aircraft.

Each one of the Contracting States undertakes to accord to the other State the same privileges as they concede to any third State in regard to the matters referred to herein.

General regulations regarding the relations between the Customs authorities and aircraft are given in the Annex, which is to be regarded as an integral part of this Convention.

ARTICLE 38

An aircraft, together with the crew, passengers, merchandise, food provisions and goods which it carries shall, subject to the provisions of this Convention, conform to the laws and other regulations in force in regard to air navigation, customs, taxes and the movement of persons and goods in the country in which the aircraft finds itself, as also to such other laws and regulations as may affect the matter in question.

ARTICLE 39

In case of war the provisions of this Convention shall in no way limit the freedom of action of the Contracting States in their capacity as belligerents or as neutrals.

ARTICLE 40

Disputes between the Contracting States affecting the interpretation or application of this Convention and of the annexes thereto shall, if they cannot be settled by direct negotiations, be referred for decision to the Permanent Court of International Justice instituted by the League of Nations.

ARTICLE 41

This Convention shall be ratified and the ratifications shall be exchanged as early as possible at Stockholm.

The Convention shall come into force with effect from the date of the exchange of ratifications. It may be denounced at six months notice from the Contracting States.

ARTICLE 42

In faith whereof the respective plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done at Stockholm in duplicate on May 26, 1923.

CARL HEDERSTIERNA.

J. H. WOLLEBAEK.